

REMARKS

The Office Action dated September 13, 2007, has been received and carefully noted. The above amendments and the following remarks are submitted as a full and complete response thereto.

By this Amendment, claims 26 and 39 have been amended. No new matter is presented. Support for the amendments to the claims can be found on at least page 13, line 6 to page 14, line 21, of the Specification as originally filed. Claims 1, 3-6 and 8-49 are pending and respectfully submitted for consideration.

Rejections Under 35 U.S.C. § 103

Claims 1, 6, 8, 11, 15, 39, 41 and 44-47 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps et al. (U.S. Patent No. 5,741,182, "Lipps") in view of Marinelli (U.S. Patent No. 6,157,898).

The Applicants traverse the rejection and respectfully submit that independent claims 1 and 39 recite subject matter that is neither disclosed nor suggested by the combination of Lipps and Marinelli.

Claim 1 recites that the piezoelectric buzzer is arranged within the input device in a manner that a main surface of the piezoelectric buzzer is perpendicular to or in parallel with a longitudinal direction of the grip. In the reproduced Figure 1 on page 3 of the Office Action, the Office Action shows a switch and asserts that the switch is parallel and perpendicular to a grip. However, the Office Action does not set forth a "piezoelectric buzzer arranged perpendicular to or in parallel with a longitudinal direction of the grip". The Office Action also does not set forth that the piezoelectric buzzer in Marinelli is arranged perpendicular to or in parallel with a longitudinal direction of the grip. In particular, the Office Action does not set forth or suggest that if the switch in Lipps is

modified with the piezoelectric buzzer in Marinelli, that the modified Lipps would have a piezoelectric buzzer “arranged perpendicular to or in parallel with the longitudinal direction of the grip”.

The Applicants respectfully submit that it is not inherent that the mere substitution of elements would result in the same positioning and there is no disclosure or suggestion in the cited references and no assertion in the Office Action that the piezoelectric buzzer in Marinelli would have a main surface arranged as the switch in Lipps. The Office Action on page 4, lines 12-14, states that it is noted that the replacement of the switch with the buzzer is not considered to alter position relationship information (e.g., relationship between the switch/buzzer and the grip). The Applicants respectfully submit that there is no evidence provided in the Office Action or the cited references that the piezoelectric buzzer in Marinelli would affirmatively maintain the same positional relationship as the switch in Lipps. Merely because the Office Action alleges the buzzer to have the same positional relationship as the switch, is not a teaching or suggestion or evidence that this, in fact, would occur.

Under U.S. Patent practice, where references do not disclose features of the claims relied on to distinguish the prior art, they cannot suggest modifying the prior art to contain those features. In re Civitello, 144 U.S.P.Q. 10 (CCPA 1964). In this case, neither Lipps nor Marinelli disclose the feature of a piezoelectric buzzer perpendicular to or in parallel with a longitudinal direction of the grip. As such, Marinelli cannot suggest modifying Lipps to contain this feature. Further, silence in a reference is not a proper substitute for adequate disclosure of facts from which a conclusion of obviousness may justifiably follow. In re Burt, 148 U.S.P.Q. 548 (CCPA 1966). In this case, both Lipps and Marinelli are silent as to the position of a piezoelectric buzzer in the device of Lipps. The

silence of Lipps and Marinelli regarding the position of the piezoelectric buzzer, is not a proper substitute for adequate disclosure of the position of the piezoelectric buzzer in Lipps. As such, the Applicants respectfully submit that Lipps and Marinelli do not disclose or suggest the features of the invention as recited in claim 1.

With respect to claim 39, the Applicants respectfully submit that the combination of Lipps and Marinelli fails to disclose or suggest the claimed features of the invention. Claim 39 recites a game processor for receiving the ON signal and determining, based on a timing that the acceleration switch is turned on, a moving timing that is a depth position in the screen of the ball character, and a moving direction of the ball character as a parameter for a movement of the ball character.

The Office Action acknowledges that Lipps fails to teach a game processor for determining the moving speed of the ball character. See page 7, line 13 of the Office Action. The Office Action cites Marinelli for curing this deficiency and asserts that Marinelli teaches a device for measuring a movable object, such as a baseball, football, hockey puck, soccer ball, tennis ball, bowling ball, or a golf ball, wherein the speed, spin rate and curve of said movable object can be determined and displayed via an output display (Abstract; column 1, lines 13-21). See page 5, paragraph 6 of the Office Action. The Applicants respectfully submit that there is no disclosure or suggestion in Marinelli of a game processor that determines, based on a timing that the acceleration switch is turned on, a moving timing that is a depth position in the screen of the ball character, and a moving direction of the ball character as a parameter for a movement of the ball character. In contrast, Marinelli merely teaches that multiple sensors should be employed in order to most accurately measure centrifugal force due to rotation. As such, Marinelli fails to cure the deficiencies in Lipps with respect to claim 39.

In addition, with respect to claim 39, the Office Action asserts that it is inherent that a hit ball will have a moving direction based on, at least in part, the object or objects used to hit the ball. See page 7, paragraph 8 of the Office Action. The Applicants respectfully submit, however, that it is not inherent in Lipps for a game processor to determine a moving timing that is a depth position in the screen of the ball character and a moving direction of the ball character as a parameter for a movement of the ball character, based on a timing that the acceleration switch is turned on and the position of the ball character as required by claim 39. As such, the combination of Lipps and Marinelli fails to disclose or suggest the features of the invention as recited in claim 39.

Claims 12, 13, 22, 23, 48, 26, 32 and 35-37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps. Claims 13, 22, 23 and 48 depend from claim 12 and claims 32 and 35-37 depend from claim 26. The Applicants traverse the rejection and respectfully submit that Lipps fails to disclose or suggest the features of the invention as recited in claims 12 and 26.

Claim 12 recites that the “signal output means includes a plurality of transmitting means. . . said plurality of transmitting means transmitting the acceleration correlated signal from the different surfaces of the input device.” The Office Action asserts that Lipps teaches a plurality of wireless transmitting means for transmitting the acceleration correlated signal. See page 16, paragraph 30 of the Office Action. Office Action also asserts that the bat 4 is comparable to the input device and that the centrifugal switch is comparable to the signal output means. However, Lipps does not disclose or suggest that the bat 4 and the centrifugal switch include a plurality of transmitting means. Specifically, although Lipps discloses the possibility of using different types of transmitting means, there

is no disclosure or suggestion in Lipps that the actual centrifugal switch within the bat 4 includes a plurality of transmitting means.

In addition, the Office Action states that “furthermore, a given input device comprising a plurality of transmitting means would typically have such transmitting means located in different locations of said bat, resulting in the origin of said signals differing from one another.” The Applicants respectfully submit, however, that the Office Action has not established or set forth that the bat in Lipps comprises a plurality of transmitting means in a single signal output means, as recited in claim 12. Further, the Office Action finds no support in Lipps or any of the other cited references. As such, Lipps fails to disclose or suggest the features of the invention as recited in claim 12.

With respect to claim 26, the Applicants respectfully submit that Lipps fails to disclose or suggest the claimed features of the invention. Claim 26 recites a game processor for receiving the acceleration correlated signal and determining, based on the acceleration correlated signal and a moving timing that is a depth position in the screen, a moving direction of the ball character as a parameter for a movement of the ball character. In contrast, Lipps discloses that when the player swings the bat, an internal inertial switch senses the motion and activates a circuit which sends a signal to the video game console to control the animated batter in the game. Further, the Office Action acknowledges that in Lipps, a game processor is used for causing a change in the batter displayed on a screen. See page 17, paragraph 35 of the Office Action. The Applicants respectfully submit that the batter in Lipps is not comparable to the ball character recited in claim 26, at least because there is no disclosure or suggestion of a depth position in this screen. Thus, there is no disclosure or suggestion of a game processor for determining a moving direction of the ball character based on a moving timing that is a depth position in the

screen. As such, Lipps does not disclose or suggest each and every feature of the invention as recited in claim 26.

Claims 3 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps and Marinelli, as applied to claims 1, 6, 8, 11, 15, 39, 41 and 44-47, in view of Tosaki et al. (U.S. Patent No. 6,312,335 B1, "Tosaki").

Claims 4 and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps and Marinelli, as applied to claims 1, 6, 8, 11, 15, 39, 41 and 44-47, in view of Lipson (U.S. Patent No. 5,435,554).

Claims 5 and 43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps, Marinelli, and Lipson, as applied to claims 4 and 42, in view of Tosaki.

Claims 10 and 49 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps and Marinelli, as applied to claims 1, 6, 8, 11, 15, 39, 41 and 44-47, in view of Zur et al. (U.S. Patent No. 5,833,549, "Zur").

Claims 16 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps and Marinelli, as applied to claims 1, 6, 8, 11, 15, 39, 41 and 44-47, in view of Nomura et al. (U.S. Patent No. 5,779,555, "Nomura").

Claims 14 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps, as applied to claims 12, 13, 22, 23, 48, 26, 32 and 35-37, in view of Nomura.

Claims 17, 18, 30 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps, as applied to claims 12, 13, 22, 23, 48, 26, 32 and 35-37, in view of Zur.

Claims 19 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps, as applied to claims 12, 13, 22, 23, 48, 26, 32 and 35-37, in view of Tosaki.

Claims 20 and 33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps, as applied to claims 12, 13, 22, 23, 48, 26, 32 and 35-37, in view of Lipson.

Claims 21 and 34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps and Lipson, as applied to claims 20 and 33, in view of Tosaki.

Claims 25, 28, 29, 38 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lipps, as applied to claims 12, 13, 22, 23, 48, 26, 32 and 35-37, in view of Marinelli.

The Applicants respectfully submit that Tosaki, Lipson and Zur fail to cure the deficiencies in the combination of Lipps and Marinelli with respect to independent claims 1, 12, 26 and 39. As such, Tosaki, Lipson, Nomura and Zur, in combination with Lipps and Marinelli, fail to teach or suggest the features of the invention as recited in dependent claims 3-5, 9-10, 14, 16-21, 24-25, 27-31, 33-34, 38, 40, 42-43, 48 and 49.

In particular, with respect to claim 1, none of Tosaki, Lipson, Nomura and Zur discloses or suggests at least the features of the piezoelectric buzzer arranged within the input device in the manner that a main surface of the piezoelectric buzzer is perpendicular to or in parallel with a longitudinal direction of the grip.

With respect to claim 12, none of Tosaki, Nomura, Lipson and Zur disclose or suggest at least the features of signal output means includes a plurality of transmitting means, each of which transmits the acceleration correlated signal in a wireless manner, the plurality of transmitting means transmitting the acceleration correlated signal from the different surfaces of the input device.

With respect to claim 26, none of Tosaki, Lipson, Nomura and Zur disclose or suggest at least the features of a game processor for receiving the acceleration correlated signal and determining based on the acceleration correlated signal and a moving timing

that is a depth position in the screen, a moving direction of the ball character as a parameter for movement of the ball character.

With respect to claim 39, none of Tosaki, Lipson, Nomura and Zur disclose or suggest at least the features of a game processor for receiving the ON signal and determining, based on a timing that the acceleration switch is turned on a moving timing that is a depth position in said screen of said ball character, and a moving direction of said ball character as a parameter for a movement of said ball character.

In the Response to Arguments section on page 21, paragraph 62, the Office Action refers to a 35 U.S.C. § 112, first paragraph, rejection. The Examiner clarified, by telephone, that the indication of a 35 U.S.C. § 112, first paragraph, rejection was in error and there is no § 112, first paragraph, rejection in this Office Action.

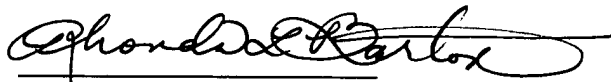
To establish a *prima facie* case of obviousness, each and every feature of a rejected claim must be taught or suggested by the applied art of record. See M.P.E.P. § 2143.03.

In view of the above, the Applicants respectfully submit that the cited references fail to support a *prima facie* case of obviousness for purposes of a rejection of claims 1, 12, 26 and 39 under 35 U.S.C. § 103. Accordingly, claims 1, 12, 26 and 39 are not rendered obvious in view of the cited references and should be deemed allowable. Claims 3-6, 8-11, 15, 16 and 49 depend from claim 1; claims 13, 14, 17-25 and 48 depend from claim 12; claims 27-38 depend from claim 26; and claims 40-47 depend from claim 39. The Applicants further submit that each of these claims incorporate the patentable aspects thereof, and are therefore allowable for at least the same reasons as discussed above. Accordingly, the Applicants respectfully request withdrawal of the rejections, allowance of claims 1, 3-6 and 8-49, and the prompt issuance of a Notice of Allowability.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing Attorney Dkt. No. 100341-00008.**

Respectfully submitted,



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